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Express Mail Label No. EV682425076US Dated: June 19, 2006

Docket No.: APW-022  
(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of:  
Eiji Hashimoto *et al.*

Application No.: 10/656382

Confirmation No.: 8525

Filed: September 5, 2003

Art Unit: 2121

For: CONTROL SYSTEM FOR PLANT

Examiner: S. Chang

**PETITION TO CONSIDER CORRESPONDENCE AS HAVING BEEN  
FILED IN THE U.S. PATENT OFFICE ON THE  
U.S. POSTAL SERVICE DEPOSIT DATE PURSUANT TO 37 C.F.R. § 1.10**

Mail Stop Petition  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby requests that the correspondence attached hereto as Exhibit A be granted a filing date of **June 2, 2006**, the date the correspondence was deposited with the United States Postal Service in a properly addressed "Express Mail Post Office to Addressee" envelope.

On **June 2, 2006**, the correspondence having printed thereon Express Mail Label No. EV682327825US was deposited the United States Postal Service for Express Mail service to the MS Amendment, COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA VA 22313-1450. On June 3, 2006, the United States Postal Service erroneously delivered the correspondence to the sender identified in the Express Mail Label No. EV682327825US, namely, LAHIVE & COCKFIELD LLP, 28 State ST FL 24, BOSTON MA 02109-1784. Subsequently, Applicants' representative investigated the cause of the error with the U.S. Postal Service and was unable to determine an exact cause.

In support of their request for granting of a timely filed reply that was returned to the sender by the United States Postal Service due to a United States Postal Service error, Applicants submit herewith, copies of the following documents as evidence of the actual filing

date of **June 2, 2006** for the above-referenced correspondence with the United States Postal Service Post Office to Addressee Express Mail Service.

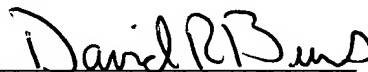
(1) A true copy of the originally deposited papers constituting the correspondence deposited with the United States Postal Service on **June 2, 2006**, and bearing a Rule 10 certification of Express Mailing (Express Mail Label No. EV682327825US), indicating that the reply filing package was deposited with the United States Postal Service on **June 2, 2006**. The correspondence includes a Mailroom Postcard, a Transmittal Form, a Fee Transmittal (in duplicate), an Amendment and Response, a First Terminal Disclaimer and a Second Terminal Disclaimer (Attached hereto as Exhibit A containing 15 pages); and

(2) A true copy of the "Express Mail" mailing label No. EV682327825US from the Express Mail Envelope showing the United States Postal Service date in of **June 2, 2006**, and addressed to MS Amendment, COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA VA 22313-1450 (Attached hereto as Exhibit B containing 2 pages). This true copy, together with item (1) establish that the instant correspondence was deposited with the United States Postal Service "Express Mail" Post Office to Addressee Service on **June 2, 2006** and is therefore entitled to a filing date of **June 2, 2006**.

In summary, Applicant respectfully requests that the present Petition be granted and that the filing date of the correspondence be granted a filing date of **June 2, 2006**.

Dated: **June 19, 2006**

Respectfully submitted,

By 

David R. Burns

Registration No.: 46,590

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney for Applicants

EXHIBIT A

Atty Docket No.: APW-022

**Inventor:** Eiji HASHIMOTO *et al.*

**Application No.:** 10/656382-Conf. #8525

**Filing Date:** September 5, 2003

**Title:** CONTROL SYSTEM FOR PLANT

**Documents Filed:**

Fee Transmittal (1 page) in duplicate

Amendment in Response to Non-Final Office Action (10 pages)

2 Terminal Disclaimers (2 pages)

Transmittal (1 page)

Charge \$260.00 to deposit account 12-0080

Return Receipt Postcard

**Via:** Express Mail: Airbill No. EV682327825US

**Sender's Initials:** DRB/jll

**Date:** June 2, 2006

## EXHIBIT A

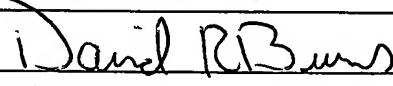
PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;">(to be used for all correspondence after initial filing)</p>	Application Number	10/656382-Conf. #8525
	Filing Date	September 5, 2003
	First Named Inventor	Eiji HASHIMOTO
	Art Unit	2121
	Examiner Name	S. Chang
Total Number of Pages in This Submission	Attorney Docket Number	APW-022

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer (2) <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
<div style="border: 1px solid black; padding: 5px; min-height: 100px;">         Remarks       </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	LAHIVE & COCKFIELD, LLP		
Signature			
Printed name	David R. Burns		
Date	June 2, 2006	Reg. No.	46,590

## EXHIBIT A

PTO/SB/17 (12-04v2)

Approved for use through 7/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</b> <b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b>	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/656382-Conf. #8525
		Filing Date	September 5, 2003
		First Named Inventor	Eiji HASHIMOTO
		Examiner Name	S. Chang
		Art Unit	2121
<b>TOTAL AMOUNT OF PAYMENT</b> (\$) 260.00		Attorney Docket No.	APW-022

**METHOD OF PAYMENT** (check all that apply)

☐ Check    ☐ Credit Card    ☐ Money Order    ☐ None    ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account    Deposit Account Number: 12-0080    Deposit Account Name: Lahive & Cockfield, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below                      ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17                      ☒ Credit any overpayments

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	<u>Small Entity</u> Fee (\$)	Fee (\$)	<u>Small Entity</u> Fee (\$)	Fee (\$)	<u>Small Entity</u> Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	<u>Small Entity</u> Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>
20	-	=		<u>Fee (\$)</u> <u>Fee Paid (\$)</u>
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	
5	-	=		

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 100 =	/50	(round up to a whole number) x	=	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)	
Other (e.g., late filing surcharge): 1814 Statutory Disclaimers (2)	260.00
	<b>Fees Paid (\$)</b>

<b>SUBMITTED BY</b>			
Signature	<u>David R. Burns</u>	Registration No. (Attorney/Agent)	46,590
Name (Print/Type)	David R. Burns	Telephone	(617) 227-7400
		Date	June 2, 2006